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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.            | CONFIRMATION NO. |
|--|-------------|----------------------|--------------------------------|------------------|
| 10/822,588   | 04/12/2004  | Harland D. Couillard | UPCP 0102 PUS1                 | 3553             |
| 22045  | 7590        | 03/31/2006           |                                |                  |
| BROOKS KUSHMAN P.C.<br>1000 TOWN CENTER<br>TWENTY-SECOND FLOOR<br>SOUTHFIELD, MI 48075 |             |                      | EXAMINER<br>KATCHEVES, BASIL S |                  |
|  |             |                      | ART UNIT                       | PAPER NUMBER     |
|  |             |                      | 3635                           |                  |

DATE MAILED: 03/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/822,588 | <b>Applicant(s)</b><br>COUILLARD, HARLAND D. |  |
|                              | <b>Examiner</b><br>Basil Katcheves   | <b>Art Unit</b><br>3635                      |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-22 and 36-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-37, 48, 49 and 51 is/are allowed.
- 6) ☒ Claim(s) 38-40, 43, 44, 46 and 47 is/are rejected.
- 7) ☒ Claim(s) 41, 42, 45 and 50 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Applicant has cancelled claims 1-14, 23-35, and added new claims 48-51.  
pending claims 15-22 and 36-51 are examined below.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 38-40, 43, 44, 46 and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,157,810 to Haller et al.

Regarding claims 38 and 46, Haller discloses a method of separating a first object (fig. 5: 2) from a second object (fig. 5: ground shown in hash marks) comprising engaging a first element (52) with the first object (2), the first element having a stop (fig. 5: 50), the second element (90) engages the stop (when swung) and supported by a support (84), wherein the second element is swingable from a first position which does not engage the stop (fig. 5: see space between 2<sup>nd</sup> element and 52, denoting the first position) to a 2<sup>nd</sup> position in which the 2<sup>nd</sup> element engages the stop.

Regarding claim 39, Haller discloses the 1<sup>st</sup> element as having a guide channel (fig. 5: area between 50 & 52) which receives the 2<sup>nd</sup> element (90).

Regarding claim 40, Haller discloses the 2<sup>nd</sup> element as having an I cross section (I cross section when viewed from end near numeral 90).

Regarding claim 43, Haller discloses both elements as being supported by the support member (fig. 5: 84).

Regarding claim 44, Haller inherently discloses the swing weight as being adjustable since it is designed to be pushed by a person. Different people will exert a variable force upon the element.

Regarding claim 47, Haller discloses the second element as oriented in a horizontal position during its swinging motion (midway of a full swing) with respect to the support.

### ***Claim Objections***

Claims 41, 42, 45 and 50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Allowable Subject Matter***

Claims 15-37, 48, 49 and 51 are allowed.

### ***Response to Arguments***

Applicant's arguments filed 1/26/06 have been fully considered but are moot under new grounds of rejections. Applicants argument regarding the double patenting rejection of the previous office action is persuasive. The double patenting rejection has been removed.

**Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (571) 272-6842.

BK 

3/28/06

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600